

★ Roll Call Number

10-550

Agenda Item Number

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Date April 12, 2010

**HOLD HEARING FOR VACATION AND CONVEYANCE OF STATE AVENUE FROM SEARLE STREET TO EAST 23<sup>RD</sup> STREET AND SEARLE STREET FROM STATE AVENUE TO FREDERICK M. HUBBELL AVENUE TO ANDERSON ERICKSON DAIRY CO. FOR \$30,786**

**WHEREAS**, on February 8, 2010, by Roll Call No. 10-182, the City Council received a recommendation from the City Plan and Zoning Commission that State Avenue from Searle Street to East 23<sup>rd</sup> Street and Searle Street from State Avenue to Frederick M. Hubbell Avenue, hereinafter more fully described, be vacated and sold; and

**WHEREAS**, the grantee identified below is the owner of property abutting such rights-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of such rights-of-way described below, in order to use such rights-of-way for the expansion of and incorporation into their existing site, which conveyance will be subject to reservation of a public access easement over the eastern portion of vacated State Avenue for access to the north/south alley, and which purchase price reflects the restricted fair market value of the property as currently estimated by the City's Real Estate Division; and

**WHEREAS**, on March 22, 2010, by Roll Call No. 10- 428, it was duly resolved by the City Council that the proposed vacation and conveyance of such rights-of-way be set down for hearing on April 12, 2010, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public rights-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the rights-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of State Avenue from Searle Street to East 23<sup>rd</sup> Street and Searle Street from State Avenue to Frederick M. Hubbell Avenue, more specifically described as follows:

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All of Searle Street right-of-way lying West of and adjoining Lots 52 through 56, Allen Place, an Official Plat, and all of State Avenue right-of-way lying North of and adjoining Lots 1 through 6, Ostend, an Official Plat, and lying North of and adjoining vacated Searle Street (Vacated by Ordinance No. 7608, passed February 5, 1968), all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the sale and conveyance of such rights-of-way to Anderson Erickson Dairy Co. for \$30,786, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

All of vacated Searle Street right-of-way lying West of and adjoining Lots 52 through 56, Allen Place, an Official Plat, and all of vacated State Avenue right-of-way lying North of and adjoining Lots 1 through 6, Ostend, an Official Plat, and lying North of and adjoining vacated Searle Street (Vacated by Ordinance No. 7608, passed February 5, 1968), all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.

8. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

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(Council Communication No. 10-190)

Moved by Moore to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank  
Assistant City Attorney

\* Council Member Mahaffey declares a conflict of interest and abstains from voting.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY				
MEYER	✓			
MOORE	✓			
TOTAL	6			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

T. M. Franklin  
Mayor

Diane Rauh  
City Clerk